

**REMARKS**

Previously, Applicant received an Office Action dated April 7, 2008 (“*Office Action*”). At the time of the *Office Action*, Claims 1-20 were pending, of which, the Examiner rejected Claims 1-20 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,684,945 to Chen et al. (*Chen*). Applicants have amended Claims 1-12, 14, 15, 17, 19 and 20, added Claim 21, and left Claims 13, 16 and 18 unamended. Applicant respectfully traverses these rejections.

**I. Legal Standard under 35 U.S.C. §102.**

With regard to 35 U.S.C. § 102 “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *See* M.P.E.P. § 2131. In addition, “[t]he identical invention must be shown in complete detail as contained in the . . . claim [and] [t]he elements must be arranged as required by the claim.” *Id.* Furthermore, “[i]n determining that quantum of prior art disclosure which is necessary to declare an applicant’s invention ‘not novel’ or ‘anticipated’ within section 102, the stated test is whether a reference contains an ‘enabling disclosure.’” *See* M.P.E.P. § 2121.01.

**II. Neither the “alarms” of *Chen* nor the “sort” feature of *Chen* disclose the limitations of Claim 1 as argued by the Examiner.**

Claim 1 is directed to a method of identifying problems in applications. According to the method, the system resource usage of one or more running applications is monitored at a kernel level without modifying run-time environments of the running application(s). From the monitored system usage, it is determined whether a system usage pattern of a first application satisfies a predetermined criteria associated with one or more problems, and if the system usage pattern of the first application satisfies the predetermined criteria, the first application is identified to a user. *Chen* does not disclose each of these limitations.

For example, Claim 1 discloses “from the monitored system usage, determining whether a system usage pattern of a first application satisfies a predetermined criteria associated with one or more problems.” While the Examiner argues that *Chen* discloses a “sort” feature wherein, “[t]he user can select a ‘sort’ button to reorder the menu of process data by specific category or process parameter (e.g., process ID (PID), process name, process

priority, **userid of the process owner, process memory utilization . . .);**" see *Office Action*, page 3 (emphasis original), Applicant respectfully points out that the alleged sort feature of *Chen* does not "determin[e] whether a system usage pattern of a first application satisfies a predetermined criteria associated with one or more problems" as required by Claim 1.

Furthermore, the Examiner argues that *Chen* discloses an "alarm" feature wherein system statistics may be "filtered and alarmed." See *Office Action*, page 3. However, Applicant respectfully points out that the alleged alarms of *Chen* are merely "a special utility that allows a user to . . . define alarms that are triggered by **user-defined conditions** and which may execute any desired command." See *Chen*, Col. 87, lines 37-40 (emphasis added). *Chen* describes a threshold alarm as follows, "[a]n alarm consists of an action part that describes what action to trigger and a condition part that defines the conditions for triggering the alarm." See *Chen*, col. 91 lines 30-33. For example, "if it is desired to be informed whenever the paging space on a host has less than 10 percent free or there is less than 100 pages free paging space, an alarm definition like the following could be used . . ." *Id.* at col. 92 lines 56-60. Respectfully, the alleged alarms of *Chen* merely inform a user when a user-defined condition occurs. The alarms of *Chen* do not "determin[e] whether a system usage pattern of a first application satisfies a predetermined criteria associated with one or more problems" as required by Claim 1.

For at least these reasons, independent Claim 1 and its dependent claims are allowable under 35 U.S.C. § 102. For analogous reasons, independent Claims 12, 14, 15, 17, 18, and 19 and their respective dependent claims are allowable under 35 U.S.C. § 102.

**III. *Chen* does not disclose a "predetermined limit on the number of processes that each of the one or more user applications may spawn" as required by Claim 2.**

Claim 2 is directed to the method of Claim 1, "wherein the system resource usage comprises a number of the one or more processes that each of the one or more applications have spawned and the predetermined criteria comprises a predetermined limit on the number of processes that each of the one or more user applications may spawn." To reject these limitations, the Examiner a "Process Control" feature of *Chen* described at Col. 93, lines 13-29 and the "Sort" feature of *Chen* described at col. 94, lines 8-26.

According to *Chen's* description of the "Process Control" feature:

[a]n important component of system and network performance tuning is the ability to access and alter the course of a process execution while it is running from any node in the system. In fact, for a system administrator who has responsibility for a number of systems and is concerned about resource balancing as well as problem corrections, it is quite important to have an easy facility for centrally monitoring and controlling processes across a network. This system administrator needs to be able to adjust the priorities of processes to assure the smooth flow of work through a network of systems, as well as to kill processes that have become "pathologically insane", or running rampant. This control facility is an important component of performance management in conjunction with a live monitoring facility that allows a system administrator to immediately see the system response to the action just taken.

*Chen*, col. 93 lines 13-29. Applicant respectfully contends that *nothing* in this portion of *Chen* discloses, a "predetermined limit on the number of processes that each of the one or more user applications may spawn" as required by Claim 2. Moreover, to the extent that the Examiner intends to maintain this rejection, Applicant respectfully requests the Examiner to more specifically identify which portions of this section support the rejection so that Applicant may respond accordingly.

Likewise, *Chen's* description of the "sort" feature states:

The user can select a "sort" button to reorder the menu of process data by a specific category or process parameter, e.g., process ID (PID), process name, process priority, userid of the process owner, process memory utilization, CPU utilization, page faults, etc.

The GUI expands the "sort" button into a secondary set of option buttons for the user to select which category to sort. After the user has selected a category to sort, the ranking is done alphanumerically, depending on the type of data in the category. The sorted data is then redisplayed by the GUI.

The user can request a "refresh" snapshot of the process data to get the most recent data values. The refresh is particularly useful for remote process information, when processes are not being continuously monitored.

The user then selects one or more processes from the menu and selects the action to take on those processes, e.g., lower or raise priority, kill process(es), get more detailed statistics, etc.

*Chen*, col. 94 lines 8-29. Applicant respectfully contends that *nothing* in this portion of *Chen* discloses, a "predetermined limit on the number of processes that each of the one or more user applications may spawn" as required by Claim 2. Moreover, to the extent that the

Examiner intends to maintain this rejection, Applicant respectfully requests the Examiner to more specifically identify which portions of this section support the rejection so that Applicant may respond accordingly. For at least these reasons, Applicant respectfully contends that Claim 2 is in condition for allowance.

**IV. Chen does not disclose “determining whether [a] first application has orphaned [a] process” as required by Claims 3 and 20.**

Claim 3 includes the limitations, “determining whether the first application has orphaned one of the one or more running processes.” Applicant respectfully contends that *Chen* does not disclose these limitations. To reject these limitations, the Examiner points to the “Process Control” feature of *Chen* described at Col. 93, lines 13-29 and emphasizes *Chen’s* statement that,

This system administrator needs to be able to adjust the priorities of processes to assure the smooth flow of work through a network of systems, as well as to kill processes that have become "pathologically insane", or running rampant.

*Chen*, col. 93 lines 21-25. Respectfully, *nothing* in this portion of *Chen* discloses, “determining whether the first application has orphaned one of the one or more running processes” as required by Claim 3. Accordingly, Applicant respectfully contends that Claim 3 is in condition for allowance. For analogous reasons, Applicant respectfully contends that Claim 20 is in condition for allowance.

**CONCLUSION**

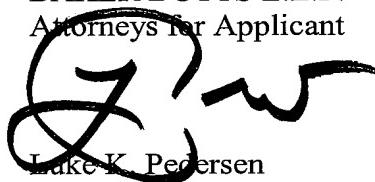
Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for other apparent reasons, Applicant respectfully requests full allowance of all pending claims.

If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, please feel free to contact the undersigned attorney for Applicant.

The Examiner is authorized to charge the amount of **\$50.00** for the addition of one dependent claim to Deposit Account No. 02-0384 of Baker Botts L.L.P. Please charge any additional fees or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.  
Attorneys for Applicant



Luke K. Pedersen  
Reg. No. 45,003

Date: 7-1-08

**CORRESPONDENCE ADDRESS:**

Customer Number:

**05073**